

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MERLINDA PEREA, and FRANCINE PUENTES,
Co-Personal Representatives of the
Wrongful Death Estate of JERRY PEREA and
ON BEHALF OF THE MINOR, BP,

Plaintiffs,

-vs-

NO: CIV 13-263 RB-RHS

CITY OF ALBUQUERQUE,
ALBUQUERQUE CITY POLICE,
APD OFFICER DAVID BACA and
APD OFFICER ANDREW JARAMILLO,

Defendants.

DEPOSITION OF ALBERT RIVERA

March 12, 2014
1:03 p.m.
Fourth Floor
One Civic Plaza, Northwest
Albuquerque, New Mexico

PURSUANT TO THE FEDERAL RULES OF CIVIL
PROCEDURE, this deposition was:

TAKEN BY: STEPHANIE M. GRIFFIN, ESQ.
ATTORNEY FOR DEFENDANTS

REPORTED BY: KENDRA D. TELLEZ
CCR #205
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<p>9</p> <p>1 Q. At any time during this event did you 2 notice whether or not the officers used any weapons 3 or tools?</p> <p>4 A. I believe it was the -- I don't know which 5 one at the time. It was the younger police officer 6 had a Taser gun and he Tasered him while the older 7 officer had -- had him embraced, tried to hold him 8 down. That's when the younger cop came in and 9 Tasered him.</p> <p>10 Q. How did you recognize the Taser? Had you 11 seen a weapon like that before?</p> <p>12 A. Yeah, I've seen it before.</p> <p>13 Q. In what context?</p> <p>14 A. Just television, you know, things like 15 that.</p> <p>16 Q. When you saw the Taser, at what point 17 during this event did you see the Taser being 18 brought out?</p> <p>19 A. I would say within a couple of seconds 20 from the first officer wrestling with the guy. The 21 second one came in with his Taser and Tasered the -- 22 I guess the perpetrator, whatever it is, the 23 bicyclist, and that's when I noticed -- you could 24 see the strings hanging out of the gun from where 25 the second officer was.</p>	<p>11</p> <p>1 point during this event?</p> <p>2 A. I guess if you would say he was trying to 3 motion his arms to get him off of him, you know, to 4 just break free of the embrace. I don't know if 5 that's swinging at him or swinging away from him. 6 You know, just basically trying to break the hold 7 that the officer had on him.</p> <p>8 Q. Do you recall any kicking?</p> <p>9 A. From the bicyclist?</p> <p>10 Q. Yes.</p> <p>11 A. No -- I probably couldn't see that part 12 from the waist down, because Richard's vehicle was 13 in between my -- my view from the building and from 14 where he was wrestling with him.</p> <p>15 Q. Okay. What I'm going to do, I'm going to 16 mark as Exhibit 2 to your deposition, which is a 17 Google map photo. (Exhibit 2 Marked for Identification.)</p> <p>19 Q. Do you recognize what's depicted in that 20 photo?</p> <p>21 A. Yes.</p> <p>22 Q. And what is it?</p> <p>23 A. It's my business.</p> <p>24 Q. Okay. And what I'd like for you to do, if 25 you could use this green marker and circle the area</p>
<p>10</p> <p>1 Q. Did you actually witness an officer fire 2 the Taser, the strings out of the Taser?</p> <p>3 A. Yeah.</p> <p>4 Q. Okay.</p> <p>5 A. It was the younger officer. I don't know 6 their names, but . . .</p> <p>7 Q. How was the bicyclist acting just prior to 8 the Taser being deployed?</p> <p>9 A. He seemed kind of scared, like he was just 10 trying to get away, trying to, you know, just remove 11 himself from the police officer at the time. Just 12 trying to, I guess, run. And he ended up -- well, 13 when the officer Tasered him, it just kind of -- you 14 really -- I honestly didn't see much of a change in 15 the way the -- the bicyclist's behavior. I would 16 have suspected that the Taser would have -- you 17 know, he would have felt -- been motionless and all 18 this other stuff, basically immobile, try not to 19 move. But he was still wrestling with the police 20 officer.</p> <p>21 Q. Had he been wrestling with the police 22 officer prior to him being Tased?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Do you recall if he was either 25 swinging or kicking at any of the officers at any</p>	<p>12</p> <p>1 of where you were positioned when you saw this event 2 take place.</p> <p>3 A. I was inside the building, probably in 4 this area.</p> <p>5 Q. Okay. And where you've circled, is that 6 kind of like the lobby area?</p> <p>7 A. Yes, it is.</p> <p>8 Q. And can you circle -- what I'd like for 9 you to do instead of circle is write the word 10 "Officers" and -- plus "JP" where you believe the 11 officers and Mr. Perea were.</p> <p>12 A. They were in this area here, against this 13 fence. This is where they -- and JP was with them 14 right here.</p> <p>15 Q. Okay.</p> <p>16 A. Against the fence line.</p> <p>17 Q. Just because I can't see upside down. 18 Did you change positions at all from where 19 you indicated on this photograph during this event?</p> <p>20 A. No, we were in the lobby the whole time.</p> <p>21 Q. Now, what I'd like to do is if you could 22 turn to Exhibit 1, page 4.</p> <p>23 A. Okay.</p> <p>24 Q. And starting at line 2 on page 4, if you 25 could read from line 2 all the way down to line 25,</p>